



January 31, 2002

## HOUSE BILL No. 1284

DIGEST OF HB 1284 (Updated January 30, 2002 11:24 AM - DI 106)

**Citations Affected:** IC 11-8; IC 11-13; IC 35-33; IC 35-38; IC 35-44.

**Synopsis:** Violent offenders and flight risks on home detention. Creates a provision for constant supervision of violent offenders and flight risks on home detention: (1) as a condition of pre-trial release; and (2) as a condition of parole. Requires the department of correction, probation departments, and community corrections programs to develop written criteria and procedures to determine if an offender placed on home detention as a condition of pre-trial release or parole is a violent offender or flight risk. Requires that an entity monitoring a violent offender: (1) provide local law enforcement agencies with information indicating whether an offender on home detention is a violent offender; forward a photograph of the offender to local law enforcement; and (3) cause a law enforcement agency to be contacted first if a violent offender or flight risk violates a condition of home detention.

**Effective:** July 1, 2002.

**Reske, Bardon, Herndon, Ulmer**

January 14, 2002, read first time and referred to Committee on Courts and Criminal Code.  
January 30, 2002, amended, reported — Do Pass.

HB 1284—LS 6070/DI 105+



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January 31, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1284

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 11-8-1-6.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2002]: **Sec. 6.5. "Constant supervision" means the monitoring of**  
4 **a violent offender twenty-four (24) hours each day.**

5       SECTION 2. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2002]: **Sec. 8.7. "Flight risk" means a person who was placed on**  
8 **parole for conviction of escape or attempted escape or failure to**  
9 **return to lawful detention.**

10       SECTION 3. IC 11-8-1-8.9 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2002]: **Sec. 8.9. (a) "Home" means:**

13           **(1) the interior living area of the temporary or permanent**  
14           **residence of a person; or**

15           **(2) if a person's residence is a multiple family dwelling, the**  
16           **unit in which the person resides, not including the:**

17           **(A) halls or common areas outside the unit where the**

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person resides; or

(B) other units, occupied or unoccupied, in the multiple family dwelling.

(b) The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house.

(c) The term does not include a public correctional facility or the residence of another person who is not part of the social unit formed by the person's immediate family.

SECTION 4. IC 11-8-1-8.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8.8. "Monitoring device" means an electronic device that:

(1) is limited in capability to recording or transmitting information regarding an offender's presence or absence from the offender's home;

(2) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; and

(3) with the written consent of the offender and other persons residing in the home at the time an order for home detention is entered, may record or transmit:

(A) visual images;

(B) oral or wire communication or any auditory sound; or

(C) information regarding the offender's activities while inside the offender's home.

SECTION 5. IC 11-8-1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. "Security risk" means a person who is a threat to the physical safety of the public.

SECTION 6. IC 11-8-1-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. "Violent offender" means a person who meets either of the following conditions:

(1) Was placed on parole for conviction of any of the following offenses or attempted offenses:

(A) Battery (IC 35-42-2-1).

(B) Domestic battery (IC 35-42-2-1.3).

(C) Arson (IC 35-43-1-1).

(D) Stalking (IC 35-45-10-5).

(E) Knowingly selling, manufacturing, purchasing, or possessing a bomb or other container containing an explosive or inflammable substance (IC 35-47-5-1).



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(F) A crime identified as a "crime of violence" in IC 35-50-1-2(a).

(2) Is a security risk, as determined under IC 11-13-9-2.

SECTION 7. IC 11-13-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

**Chapter 9. Violent Offenders and Flight Risks on Home Detention as a Condition of Parole**

**Sec. 1.** This chapter applies to an offender who has been placed on parole under IC 11-13-3 or IC 35-50-6-1.

**Sec. 2. (a)** The department of correction shall establish written criteria and procedures for determining whether an offender is a flight risk (as defined in IC 11-8-1-8.7) or a violent offender (as defined in IC 11-8-1-12).

**(b)** The department of correction shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department of correction to quickly determine whether an offender placed on home detention as a condition of parole is a flight risk or a violent offender.

**Sec. 3.** The department of correction shall provide all law enforcement agencies having jurisdiction in the place where the offender's home detention is located with a list that includes the following information:

- (1)** The offender's name, any known aliases, and the location of the offender's home detention.
- (2)** The crime for which the offender was convicted and placed on parole.
- (3)** The date the offender's home detention expires.
- (4)** The name, address, and telephone number of the parole officer supervising the offender on home detention.
- (5)** An indication of whether the offender is a flight risk or a violent offender.
- (6)** A photograph of the offender.

**Sec. 4.** Except for absences from the offender's home for reasons set forth in IC 35-38-2.5-6(1), the department of correction shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to minimize the possibility that an offender can enter another residence or structure without a violation.

**Sec. 5. (a)** A contract agency described in subsection (b) or the department of correction shall immediately contact a local law enforcement agency described in section 3 of this chapter upon

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determining that a violent offender is violating a condition of home detention.

(b) The department of correction shall use a monitoring device and surveillance equipment to maintain constant supervision of the violent offender. The department of correction may do this by:

- (1) using its own equipment and personnel; or
- (2) contracting with an outside entity.

SECTION 8. IC 35-33-8.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

**Chapter 8.7. Pre-Trial Release and Home Detention**

**Sec. 1.** As used in this chapter, "constant supervision" means the monitoring of a violent offender twenty-four (24) hours each day by means described in section 8 of this chapter.

**Sec. 2.** As used in this chapter, "flight risk" means a person who is charged with escape or attempted escape or failure to return to lawful detention.

**Sec. 3. (a)** As used in this chapter, "home" means:

- (1) the interior living area of the temporary or permanent residence of a person; or
- (2) if a person's residence is a multiple family dwelling, the unit in which the person resides, not including the:
  - (A) halls or common areas outside the unit where the person resides; or
  - (B) other units, occupied or unoccupied, in the multiple family dwelling.

(b) The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house.

(c) The term does not include a public correctional facility or the residence of another person who is not part of the social unit formed by the person's immediate family.

**Sec. 4.** "Monitoring device" means an electronic device that:

- (1) is limited in capability to recording or transmitting information regarding an offender's presence or absence from the offender's home;
- (2) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; and
- (3) with the written consent of the offender and other persons residing in the home at the time an order for home detention is entered, may record or transmit:
  - (A) visual images;



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(B) oral or wire communication or any auditory sound; or  
 (C) information regarding the offender's activities while  
 inside the offender's home.

Sec. 5. As used in this chapter, "security risk" means a person  
 who is a threat to the physical safety of the public.

Sec. 6. As used in this chapter, "violent offender" means a  
 person who meets either of the following conditions:

(1) Is charged with one (1) of the following offenses or  
 attempted offenses:

(A) Battery (IC 35-42-2-1).

(B) Domestic battery (IC 35-42-2-1.3).

(C) Arson (IC 35-43-1-1).

(D) Stalking (IC 35-45-10-5).

(E) Knowingly selling, manufacturing, purchasing, or  
 possessing a bomb or other container containing an  
 explosive or inflammable substance (IC 35-47-5-1).

(F) A crime identified as a "crime of violence" in  
 IC 35-50-1-2(a).

(2) Is a security risk.

Sec. 7. (a) If a person resides in a county other than the county  
 in which the court has jurisdiction, the court may not place the  
 person on home detention as a condition of pre-trial release unless:

(1) the person is eligible for home detention as a condition of  
 pre-trial release in the county in which the person resides;  
 and

(2) supervision of the offender will be conducted by the county  
 in which the person resides.

(b) If a person is:

(1) serving home detention in a county that operates a home  
 detention program; and

(2) being supervised by a probation department or community  
 corrections program located in a county other than the county  
 in which the court has jurisdiction;

the court may order that supervision of the person be transferred  
 to the county where the person resides if the person remains on  
 home detention in the other county.

(c) All home detention fees shall be collected by the county that  
 supervises the offender.

Sec. 8. (a) Each probation department or community  
 corrections department shall establish written criteria and  
 procedures for determining whether a person placed on home  
 detention as a condition of pre-trial release qualifies as a flight risk



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1 or a violent offender.

2 (b) A probation department or community corrections  
3 department shall use the criteria and procedures established under  
4 subsection (a) to establish a record keeping system that allows the  
5 department to quickly determine whether an offender placed on  
6 home detention as a condition of pre-trial release is a flight risk or  
7 a violent offender.

8 (c) A probation department or community corrections  
9 department charged by a court with supervision of a flight risk or  
10 a violent offender placed on home detention as a condition of  
11 pre-trial release shall provide all law enforcement agencies having  
12 jurisdiction in the place where the probation department or  
13 community corrections department is located with information on  
14 the flight risk or the violent offender supervised by the probation  
15 department or community corrections department. The  
16 information must include the following:

17 (1) The offender's name, any known aliases, and the location  
18 of the person's home detention.

19 (2) The crime with which the offender is charged.

20 (3) The name, address, and telephone number of the  
21 offender's supervising probation or community corrections  
22 officer for pre-trial home detention.

23 (4) An indication of whether the offender is a flight risk or a  
24 violent offender.

25 (5) A photograph of the offender.

26 (d) Except for absences from the offender's home for reasons set  
27 forth in IC 35-38-2.5-6(1), a probation department or community  
28 corrections department charged by a court with supervision of an  
29 offender placed on home detention as a condition of pre-trial  
30 release shall set the monitoring device and surveillance equipment  
31 to minimize the possibility that the offender can enter another  
32 residence or structure without a violation.

33 Sec. 9. (a) A contract agency described in subsection (b) or a  
34 probation department or community corrections department  
35 charged by a court with supervision of a flight risk or a violent  
36 offender placed on home detention under this chapter shall  
37 immediately contact a local law enforcement agency upon  
38 determining that a flight risk or a violent offender is violating a  
39 condition of home detention.

40 (b) A probation department or community corrections  
41 department charged by a court with supervision of a flight risk or  
42 a violent offender placed on home detention under this chapter

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shall use a monitoring device and surveillance equipment to maintain constant supervision of the flight risk or the violent offender. The supervising entity may do this by:

- (1) using the supervising entity's equipment and personnel; or
- (2) contracting with an outside entity.

SECTION 9. IC 35-38-2.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1.5. As used in this chapter, "flight risk" means a person who is convicted of escape or attempted escape or failure to return to lawful detention.

SECTION 10. IC 35-38-2.5-4.5, AS ADDED BY P.L.137-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.5. As used in this chapter, "security risk" means a person who is

- (1) a flight risk; or
- (2) a threat to the physical safety of the public.

SECTION 11. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

- (1) convicted of an offense or attempted offense, except for an offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, ~~IC 35-44-3-5~~, IC 35-45-10-5, or IC 35-47-5-1; or
- (2) charged with an offense or attempted offense listed in ~~IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1~~; or
- (3) (2) a security risk as determined under section 10 of this chapter.

SECTION 12. IC 35-38-2.5-10, AS AMENDED BY P.L.137-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) Each probation department or community corrections department shall establish written criteria and procedures for determining whether an offender ~~or alleged offender~~ that the department supervises on home detention qualifies as a **flight risk or a violent offender**.

(b) A probation or community corrections department shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department to quickly determine whether an offender ~~or alleged offender~~ who violates the terms of a home detention order is a **flight risk or a violent offender**.

(c) A probation department or a community corrections program





charged by a court with supervision of ~~offenders and alleged offenders~~  
**an offender** ordered to undergo home detention shall provide all law  
 enforcement agencies (~~including any contract agencies~~) having  
 jurisdiction in the place where the probation department or a  
 community corrections program is located with a list of offenders ~~and~~  
~~alleged offenders~~ under home detention supervised by the probation  
 department or the community corrections program. The list must  
 include the following information about each offender: ~~and alleged~~  
~~offender:~~

- (1) The offender's name, any known aliases, and the location of  
 the offender's home detention.
- (2) The crime for which the offender was convicted.
- (3) The date the offender's home detention expires.
- (4) The name, address, and telephone number of the offender's  
 supervising probation or community corrections program officer  
 for home detention.
- (5) An indication of whether the offender ~~or alleged offender~~ is a  
**flight risk or a violent offender.**
- (6) A photograph of the offender.**

(d) Except ~~for the offender's absences from the offender's home~~  
 as provided under section 6(1) of this chapter, a probation department  
 or community corrections program charged by a court with supervision  
 of ~~offenders and alleged offenders~~ **an offender** ordered to undergo  
 home detention shall, at the beginning of a period of home detention,  
 set the monitoring device and surveillance equipment to minimize the  
 possibility that the offender ~~or alleged offender~~ can enter another  
 residence or structure without a violation.

SECTION 13. IC 35-38-2.5-12, AS ADDED BY P.L.137-2001,  
 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2002]: Sec. 12. (a) A **contracting entity described in**  
**subsection (b)**, probation department, or community corrections  
 program charged by a court with supervision of a **flight risk or a**  
 violent offender placed on home detention under this chapter shall  
 cause a local law enforcement agency ~~or contract agency~~ described in  
 section 10 of this chapter to be the initial agency contacted upon  
 determining that the **flight risk or the** violent offender is in violation  
 of a court order for home detention.

(b) A probation department or community corrections program  
 charged by a court with supervision of a **flight risk or a** violent  
 offender placed on home detention under this chapter shall maintain  
 constant supervision of the **flight risk or the** violent offender using a  
 monitoring device and surveillance equipment. The supervising entity



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1 may do this by:

2 (1) using the supervising entity's equipment and personnel; or

3 (2) contracting with an outside entity.

4 SECTION 14. IC 35-44-3-5, AS AMENDED BY P.L.137-2001,  
5 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2002]: Sec. 5. (a) A person, except as provided in subsection  
7 (b), who intentionally flees from lawful detention commits escape, a  
8 Class C felony. However, the offense is a Class B felony if, while  
9 committing it, the person draws or uses a deadly weapon or inflicts  
10 bodily injury on another person.

11 (b) A person who knowingly or ~~intentionally violates a home~~  
12 ~~detention order or~~ intentionally removes an electronic monitoring  
13 device commits escape, a Class D felony.

14 (c) A person who knowingly or intentionally fails to return to lawful  
15 detention following temporary leave granted for a specified purpose or  
16 limited period commits failure to return to lawful detention, a Class D  
17 felony. However, the offense is a Class C felony if, while committing  
18 it, the person draws or uses a deadly weapon or inflicts bodily injury on  
19 another person.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1284, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2002]: **Sec. 8.7. "Flight risk" means a person who was placed on parole for conviction of escape or attempted escape or failure to return to lawful detention.**"

Page 1, line 5, delete "IC 11-8-1-8.7" and insert "IC 11-8-1-8.9".

Page 1, line 7, delete "8.7." and insert "**8.9.**".

Page 2, delete lines 21 through 28.

Page 2, line 31, delete "a:" and insert "**a**".

Page 2, delete line 32.

Page 2, line 33, delete "(2)".

Page 2, run in lines 31 and 33.

Page 3, delete lines 1 through 2.

Page 3, line 3, delete "(F)" and insert "**(D)**".

Page 3, line 4, delete "(G)" and insert "**(E)**".

Page 3, line 7, delete "(H)" and insert "**(F)**".

Page 3, line 13, after "Offenders" insert "**and Flight Risks**".

Page 3, line 18, after "a" insert "**flight risk (as defined in IC 11-8-1-8.7) or a**".

Page 3, line 24, after "a" insert "**flight risk or a**".

Page 3, delete lines 25 through 28.

Page 3, line 29, delete "4." and insert "**3.**".

Page 3, line 29, delete "A monitoring entity" and insert "**The department of correction**".

Page 3, line 40, after "a" insert "**flight risk or a**".

Page 3, between lines 40 and 41, begin a new line block indented and insert:

**"(6) A photograph of the offender."**

Page 3, line 41, delete "5." and insert "**4.**".

Page 3, line 42, delete "a monitoring entity" and insert "**the department of correction**".

Page 4, line 5, delete "6." and insert "**5.**".

Page 4, line 5, delete "A monitoring entity" and insert "**A contract agency described in subsection (b) or the department of correction**".

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Page 4, line 6, delete "4" and insert "3".

Page 4, line 9, delete "A monitoring entity" and insert **"The department of correction"**.

Page 4, line 11, after "offender." insert **"The department of correction may do this by:**

**(1) using its own equipment and personnel; or**

**(2) contracting with an outside entity."**

Page 4, line 18, delete "7" and insert "8".

Page 4, between lines 18 and 19, begin a new paragraph and insert:

**"Sec. 2. As used in this chapter, "flight risk" means a person who is charged with escape or attempted escape or failure to return to lawful detention."**

Page 4, line 19, delete "2." and insert "3."

Page 4, line 34, delete "3." and insert "4."

Page 5, line 5, delete "4." and insert "5."

Page 5, line 6, delete "a:" and insert "a".

Page 5, delete line 7.

Page 5, line 8, delete "(2)".

Page 5, run in lines 6 and 8.

Page 5, line 9, delete "5." and insert "6."

Page 5, delete lines 16 through 17.

Page 5, line 18, delete "(F)" and insert **"(D)"**.

Page 5, line 19, delete "(G)" and insert **"(E)"**.

Page 5, line 22, delete "(H)" and insert **"(F)"**.

Page 5, line 25, delete "6." and insert "7."

Page 6, line 2, delete "7." and insert "8."

Page 6, line 5, after "qualifies as a" insert **"flight risk or a"**.

Page 6, line 11, after "is a" insert **"flight risk or a"**.

Page 6, line 14, after "of a" insert **"flight risk or a"**.

Page 6, line 19, before "violent" insert **"flight risk or the"**.

Page 6, line 22, delete "violent".

Page 6, line 24, delete "violent".

Page 6, line 25, delete "violent".

Page 6, line 28, after "a" insert **"flight risk or a"**.

Page 6, between lines 28 and 29, begin a new line block indented and insert:

**"(5) A photograph of the offender."**

Page 6, line 29, delete "A" and insert **"Except for absences from the offender's home for reasons set forth in IC 35-38-2.5-6(1), a"**.

Page 6, line 35, delete "8." and insert "9."

Page 6, line 37, after "of a" insert **"flight risk or a"**.

Page 6, line 39, after "a" insert **"flight risk or a"**.

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Page 6, line 42, after "of a" insert "**flight risk or a**".

Page 7, line 3, after "of the" insert "**flight risk or the**".

Page 7, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 8. IC 35-38-2.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 1.5. As used in this chapter, "flight risk" means a person who is convicted of escape or attempted escape or failure to return to lawful detention.**

SECTION 9. IC 35-38-2.5-4.5, AS ADDED BY P.L.137-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4.5. As used in this chapter, "security risk" means a person who is**

**(1) a flight risk; or**

**(2) a threat to the physical safety of the public."**

Page 7, line 13, strike "IC 35-44-3-5,".

Page 7, line 25, after "a" insert "**flight risk or a**".

Page 7, line 31, after "a" insert "**flight risk or a**".

Page 8, line 7, after "a" insert "**flight risk or a**".

Page 8, between lines 8 and 9, begin a new line block indented and insert:

**"(6) A photograph of the offender."**

Page 8, line 21, after "of a" insert "**flight risk or a**".

Page 8, line 24, after "that the" insert "**flight risk or the**".

Page 8, line 27, after "of a" insert "**flight risk or a**".

Page 8, line 29, after "the" insert "**flight risk or the**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1284 as introduced.)

DVORAK, Chair

Committee Vote: yeas 10, nays 0.

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